

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

THE PEOPLE,

Plaintiff and Respondent,

v.

BEVERLY GEAN GIBSON,

Defendant and Appellant.

F057349

(Super. Ct. No. F08905209)

OPINION

THE COURT*

APPEAL from a judgment of the Superior Court of Fresno County. Rosendo Pena, Jr., Judge.

James F. Johnson, under appointment by the Court of Appeal, for Defendant and Appellant.

Office of the State Attorney General, Sacramento, California, for Plaintiff and Respondent.

-ooOoo-

* Before Levy, Acting P.J., Hill, J., and Kane, J.

It was alleged in an information filed January 21, 2009,¹ that appellant Beverly Gean Gibson committed first degree burglary (Pen. Code, §§ 459, 460, subd. (a))² and that she had suffered a “strike.”³

On March 5, the following occurred: the court granted the People’s motion to amend the information to add a count of misdemeanor grand theft (§ 487, subd. (a)); appellant pled no contest to that charge; and the court dismissed the burglary charge and placed appellant on three years’ bench probation.

On March 19, appellant filed a notice of appeal in which she requested the court issue a certificate of probable cause (§ 1237.5). Also on March 19, the court granted that request.

Appellant’s appointed appellate counsel has filed an opening brief which summarizes the pertinent facts, with citations to the record, raises no issues, and asks that this court independently review the record. (*People v. Wende* (1979) 25 Cal.3d 436.) Appellant has not responded to this court’s invitation to submit additional briefing. We will affirm.

FACTS

One night in September 2007, James Matheny was in bed in his apartment when, awakened by some noise, he saw appellant’s head “pop up” at the foot of his bed.⁴ Matheny told appellant to “get out,” at which point appellant left the apartment.

¹ Except as otherwise indicated, all references to dates of events are to dates in 2009.

² All statutory references are to the Penal Code.

³ We use the term “strike” as a synonym for “prior felony conviction” within the meaning of the “three strikes” law (§§ 667, subds. (b)-(i); 1170.12), i.e., a prior felony conviction or juvenile adjudication that subjects a defendant to the increased punishment specified in the three strikes law.

⁴ Our factual statement is taken from Matheny’s testimony at appellant’s preliminary hearing.

Subsequently, Matheny discovered that the following items belonging to him were missing: a wallet containing approximately \$60.00, keys, credit cards, a bus pass and a California driver's identification card.

DISCUSSION

Following independent review of the record, we have concluded that no reasonably arguable legal or factual issues exist.

The judgment is affirmed.